

# **ARIZONA DEPARTMENT OF TRANSPORTATION**

## **ENGINEERING CONSULTANTS SECTION**

### **STATEMENT OF QUALIFICATIONS PACKAGE CONTRACT NO. 09-23**

#### **SUPPLEMENTAL SERVICES**



**December 2008**

**STATEMENT OF QUALIFICATIONS PACKET  
FOR CONTRACT NO. 09-23  
SUPPLEMENTAL SERVICES  
HISTORIC PRESERVATION SPECIALIST  
STATEWIDE**

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**SECTION I**  
**PUBLIC ADVERTISEMENT**

FOR PUBLICATION 12/12/08 and 12/19/08  
IN THE TRIBUNE NEWSPAPERS.  
(Mesa Tribune, Chandler Arizonan & Tempe Daily News)

ARIZONA DEPARTMENT OF TRANSPORTATION  
ENGINEERING CONSULTANTS SECTION

PUBLIC NOTICE  
FOR CONSULTANTS INTERESTED IN  
PROVIDING SUPPLEMENTAL SERVICES FOR  
HISTORIC PRESERVATION  
IN MARICOPA COUNTY

ECS CONTRACT NO. 09-23  
TRACS NO. VARIOUS

**Statements Due: 12/30/08**

The **ARIZONA DEPARTMENT OF TRANSPORTATION** is accepting Statements of Qualifications from firms to provide The Arizona Department of Transportation with one or more historic preservation specialists to assist staff in the Environmental Planning Group (EPG).

Statements of Qualifications will be received until **4:00 p.m.** Arizona Time on 12/30/08 at ADOT Engineering Consultants Section, 205 South 17th Avenue, Room 293E, Mail Drop 616E, Phoenix, Arizona 85007. **No Statements will be accepted after the time specified. Oral interviews may be held in the selection process.**

For further information, contact ADOT Engineering Consultant Section, (602) 712-7525. Statement of Qualification packages for Contract 09-23 are available on the ECS website: [www.azdot.gov/Highways/ECS](http://www.azdot.gov/Highways/ECS).

## SECTION II

### INFORMATION COPY TO CONSULTANTS

ARIZONA DEPARTMENT OF TRANSPORTATION  
ENGINEERING CONSULTANTS SECTION

INFORMATION COPY TO CONSULTANTS

REQUEST FOR STATEMENTS OF QUALIFICATION FOR  
CONSULTANTS INTERESTED IN PROVIDING MULTIPLE  
SUPPLEMENTAL HISTORIC PRESERVATION SPECIALISTS  
LOCATED IN PHOENIX, FLAGSTAFF OR TUCSON

ECS CONTRACT NO. 09-23

TRACS NO. VARIOUS

Statements Due: 12/30/08

Statements of Qualifications expressing interest in the project will be received until 4:00 P.M. (Arizona Time) on the date shown above, at the office of Engineering Consultants Section, 205 South 17th Avenue, Room 293E, Mail Drop 616E, Phoenix, Arizona 85007. NO Statements will be accepted after the time specified.

The Arizona Department of Transportation desires to hire one or more historic preservation specialists to assist staff in the Environmental Planning Group (EPG). The position(s) will be located in the various ADOT EPG office locations statewide, including Phoenix, Flagstaff and Tucson. The initial contract duration period will be one year, with the Department retaining the option to extend for two (2) additional one (1) year periods.

The selected consultant's employee, under the direct supervision of the Environmental Planning Group, will provide environmental assistance to staff members. Duties and responsibilities may include, but are not limited to the following:

Coordinate historic preservation reviews of assigned projects, coordinate and consult with other agencies through correspondence and meetings to determine site eligibility, effect of a project on sites, to obtain approval, and complete the state, federal or tribal level compliance process. Prepare requests for archaeological surveys; site flagging, monitoring, testing, and data recovery. Review technical reports (surveys, testing and data recovery work plans, final data recovery reports) for adequacy, acceptability, and compliance. Provide cultural resource input to environmental documents. Develop, monitor, and complete compliance with State and Federal laws for ADOT projects by working with ADOT project managers and EPG compliance staff. Prepare and review RFPs in coordination with ECS, monitor fieldwork, and interact with ADOT Districts and all sections within ADOT. Prepare Section 106 Agreement documents. Coordinate cultural resource documentation and clearances for state and federal highway development projects in accordance with the National Environmental Policy Act (NEPA) umbrella. Coordinate and consult with other state and federal agencies, local governments, and tribes on cultural resource and historic preservation issues.

Occasional out-of-town travel will be required. The consultant will need to provide their own transportation to and from meetings, field visits, etc.

Firms selected for further consideration may participate in an Oral Interview as part of the selection process.

Questions of an administrative or contractual nature can be directed to Margie Cerda, Contract Management Specialist, Engineering Consultants Section, telephone (602) 712-8369. Technical questions may be directed to Ruth Greenspan, Project Manager, telephone (602) 712-6266 until 12/24/08.

The Engineering Consultants Section Statement of Qualifications format for Contract No. 09-23 shall be followed when expressing interest in this project. The Statement of Qualifications package, or information regarding same, may be obtained from the address shown above, telephone (602) 712-7525. **Statements of Qualifications not following the correct format will be rejected.**

In order to qualify for selection, a firm must have on file with the Department a current "Prequalification Statement" or submit same with the Statement of Qualifications. Prequalification Statement forms may be obtained from the address shown above, telephone (602) 712-7525.

In order to qualify for selection, a firm must have on file with the Department a current "Prequalification Statement" or submit same with the Statement of Qualifications. Prequalification Statement forms may be obtained from the address shown above, telephone (602) 712-7525.

The Department may select one or more firms from among those submitting Statements of Qualification for further consideration. Previous experience in environmental disciplines is desirable.

All material submitted in accordance with this solicitation becomes the property of the State of Arizona.

Lobbying certification/disclosure certification statement will be required in the introductory letter from those submitting Statements of Qualifications.

The right is reserved by the Department to reject any and all Statements of Qualification.

General Liability Insurance will be required.

Partnerships (joint-ventures) will not be considered.

Reviewing the successful Proposal(s) would be allowed but copying is not permitted.

The 5 Year Highway Construction Preliminary Engineering Program estimate for FY-09.

## **SECTION III**

### **SUPPLEMENTAL SERVICES OVERHEAD GUIDELINES**



# ENGINEERING CONSULTANTS SECTION

## GUIDELINES FOR: SUPPLEMENTAL SERVICES BILLING RATES

The following policy/guidelines will be used when negotiating Supplemental Services Contracts. Contract Items that must be included in the Billing Rate:

- Workmen's Compensation (\$100,000 minimum)
- Architects and Engineer's Professional Liability (If required, \$1,000,000 each claim)
- Comprehensive General Liability (\$1,000,000 each occurrence)
- Commercial Automobile Liability (\$1,000,000 minimum)
- Employer Taxes

A firm is identified as being Incorporated, a Limited Liability Company or having 3 or more full time 40 hour per week employees. The firms payroll or corporate tax I.D. number may be requested for verification.

Billing Rate may not exceed what is considered fair and reasonable.

## **SECTION IV**

### **SUPPLEMENTAL SERVICES COMPUTER GUIDELINES (Non Applicable)**

## **SECTION V**

### **STATEMENT OF QUALIFICATIONS FORMAT INSTRUCTIONS**

ENGINEERING CONSULTANTS SECTION  
Statement of Qualifications Format  
Contract No. 09-23

	<u>FORMAT CONTENT</u>	<u>MAXIMUM POINTS</u>	<u>TOTAL NUMBER OF PAGES</u>
	FRONT COVER (Optional, but if included will count as a page)		
PART A	INTRODUCTORY LETTER		
PART B	EVALUATION CRITERIA AND SUPPORTIVE INFORMATION		
	1. Relevant Experience	30	
	2. Demonstrated Knowledge Skills and abilities	40	
	3. Education and Training	20	
	4. Knowledge of Federal and State Standards	10	
	SUB TOTAL	100	
	***5. Interview	20	
PART C	CONSULTANT FIRM INFORMATION PAGE		
	BACK COVER (Optional, but if included will count as a page)		
		<u>TOTAL POINTS</u>	<u>TOTAL PAGES</u>
	TOTAL	120	5

**PROPOSALS SHALL BE LIMITED TO 5 PAGES. THE PROPOSAL MAY INCLUDE CLEAR REPORT COVERS, COVERS, DIVIDERS, TABLE OF CONTENTS, TABLES, FIGURES, MAPS, ETC., BUT THESE MUST FIT WITHIN THE 5 PAGE LIMIT.**

- A page shall be 8 1/2 X 11 inches, blank, or printed on one side only.
- Fold out pages are not allowable.
- **Submissions exceeding the total page limitation or failing to follow the section format instructions outlined above will be rejected and the Consultant notified in writing of the reason(s) for rejection.**
- Any amendments issued on the SOQ and included in the SOQ, as required, will NOT be counted as pages.

\*\*\*Firms selected for further consideration may participate in an oral interview.

ENGINEERING CONSULTANTS SECTION  
STATEMENT OF QUALIFICATIONS  
FORMAT INSTRUCTIONS FOR  
CONTRACT NO. 09-23

Provided for **your** use is the format for submission of a **STATEMENT OF QUALIFICATIONS. SIX (6) COPIES OF THE STATEMENT OF QUALIFICATIONS ARE REQUIRED BY ADOT.** There is a FIVE (5) page limitation, which must follow the format outline. Consultant must submit a separate SOQ for each person proposed.

**PART A - INTRODUCTORY LETTER:**

The introductory letter should be addressed to:

Arizona Department of Transportation  
Engineering Consultants Section  
205 South 17th Avenue  
Room 293E, Mail Drop 616E  
Phoenix, Arizona 85007

It should contain at the minimum the following elements of information.

- An expression of the firms interest in the project.
- A summary of the information contained in their submittal.
- A statement that the Consultant certifies, by signing and submitting this proposal to the best of his or her knowledge and belief, that no Federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned for the purpose of lobbying (Refer to Section VIII).

**PART B - EVALUATION CRITERIA**

**CRITERIA EXPLANATION**

**1. RELEVANT EXPERIENCE**

Relevant experience as applicable to the area of assignment.

**2. DEMONSTRATED KNOWLEDGE, SKILLS AND ABILITIES**

Demonstrated knowledge, skills and abilities as applicable to the area of assignment.

**3. EDUCATION AND TRAINING**

Education and Training as applicable to the area of assignment.

**4. KNOWLEDGE OF FEDERAL & STATE STANDARDS**

Knowledge of Federal and State standards policies and procedures as applicable to the area of assignment.

**5. ORAL INTERVIEWS**

Response to questions and presentation

E.

**SUPPLEMENTAL SERVICES  
STATEMENT OF QUALIFICATIONS/SELECTION  
PANEL COMMENT FORM**

FIRM NAME \_\_\_\_\_ # \_\_\_\_\_

PANEL MEMBER \_\_\_\_\_

**1. RELEVANT EXPERIENCE**

What recent experience does the individual proposed have that would qualify them to perform the services required by this contract?

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What qualifications and capabilities does the proposed individual possess and are they sufficient to meet the contract requirements?

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**SCORE (30 Maximum)** \_\_\_\_\_

**2. DEMONSTRATED KNOWLEDGE, SKILLS & ABILITIES**

What did you like about the proposed individual's demonstrated knowledge, skills & abilities

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What knowledge, skills and abilities did the proposed individual demonstrate relative to the contract requirements

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How will the individuals knowledge, skills and abilities be utilized on this contract?

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**SCORE (40 Maximum)** \_\_\_\_\_

E.

FIRM NAME \_\_\_\_\_ # \_\_\_\_\_

PANEL MEMBER \_\_\_\_\_

**PANEL COMMENT FORM - PAGE TWO**

**3. EDUCATION AND TRAINING OF PROPOSED STAFF**

What evidence did the Firm provide regarding the proposed individual's credentials? Are the credentials provided relevant to the contract requirements?

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**SCORE (20 Maximum)** \_\_\_\_\_

**4. KNOWLEDGE OF FEDERAL AND STATE STANDARDS**

What sufficient evidence did the Firm provide in regard to the proposed individual's knowledge of Federal and State Standards?

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**SCORE (10 Maximum)** \_\_\_\_\_

**5. ORAL INTERVIEW**

How did the individual respond to the panel questions ? (Were the answers accurate? lacking? ....etc.)

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What impressed you about the interview? (What did they do well? What could they have done better?)

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**SCORE (20 Maximum)** \_\_\_\_\_

**SECTION VI**

**CONSULTANT FIRM INFORMATION PAGE**



PART C – CONSULTANT FIRM INFORMATION PAGE

CONTRACT NO.:

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CONTACT PERSON:

---

E-MAIL ADDRESS:

---

CONSULTANT FIRM:

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NAME OF PROPOSED INDIVIDUAL

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ADDRESS:

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CITY, STATE ZIP:

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TELEPHONE:

---

FAX NUMBER:

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ADOT CERTIFIED DBE FIRM?

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AFFIRMATIVE ACTION ON FILE WITH ADOT?

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**NOTE: The Consultant Firm Information Page must be a separate full page and is included in the total page count. This page is not evaluated by the Selection Panel, but is used by Engineering Consultants Section for administrative purposes.**

**SECTION VII**

**ADOT EMPLOYEE POST EMPLOYEE EMPLOYMENT RESTRICTIONS**

**SUPPLEMENTAL SERVICES RESTRICTIONS**



FIFE SYMINGTON  
Governor

LARRY S. BONINE  
Director

ARIZONA DEPARTMENT OF TRANSPORTATION  
INTERMODAL TRANSPORTATION DIVISION  
ENGINEERING CONSULTANTS SECTION  
205 South 17th Avenue - Room 293E, Mail Drop 616E  
Phoenix, Arizona 85007



THOMAS G. SCHMITT  
State Engineer

March 7, 1996

Engineering Consultants Section

**INFORMATION BULLETIN 96-04**

TO: CONSULTANTS  
FROM: ENGINEERING CONSULTANTS SECTION  
SUBJECT: ADOT Employee Post Employment Restrictions

The purpose of this bulletin is to provide guidance to consultants in the employment of current or former ADOT employees to work on contracts administered by the Engineering Consultants Section. The following guidelines and policy are intended to avoid actual or perceived conflicts of interest. The reference to "current ADOT employee" applies to both full time employees and temporary employees.

1. A current ADOT employee cannot be employed by a consultant to work on active ADOT contracts.
2. A current ADOT employee cannot be included in a Statement Of Qualifications proposal for an ADOT consultant contract as an owner, an individual, or as a member of the consultants team. If an employee resigns to comply with this rule their last day of ADOT employment must be prior to the date that the proposals are due.
3. If a current or former ADOT employee is employed by a consultant which has an active ADOT contract for which the employee was a decision maker in the selection process or negotiated/approved billings or contract modifications, the employee is prohibited from working on these contracts (Policy and Implementation Memorandum 92-12).



**Arizona Department of Transportation**  
**Intermodal Transportation Division**

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janet Napolitano  
Governor

Debra Brisk  
Deputy Director

Victor M. Mendez  
Director

**August 18, 2004**

**REVISED**  
**INFORMATION BULLETIN NO. 04-05**

**TO:** ADOT Project Managers/Monitors, Resident Engineers  
And Consultant Engineering Firms

**FROM:** Engineering Consultants Section

**SUBJECT:** CONFLICT OF INTEREST  
SUPPLEMENTAL SERVICES RESTRICTIONS

The purpose of this bulletin is to provide guidance to firms supplying supplemental service employees to ADOT under contracts administered by the Engineering Consultants Section (ECS).

The following restrictions are intended to avoid actual or perceived conflicts of interest. The reference to "ADOT contract employee" applies to both full time and part time contract employees.

1. A current ADOT contract employee cannot be included in a Statement of Qualifications proposal for an ADOT consultant contract as a member of the consultant's team. Exceptions would be:
  - a. if the contract employee resigns to comply with this rule their last day of ADOT contract employment must be prior to the date that the proposals are due; or
  - b. if the employee's contract is in it's third year and within 4 months of the contract completion date; or
  - c. if the Department exercises it's option not to extend the existing contract.
2. If a current or former ADOT contract employee is employed by a consultant which has an active ADOT contract for which the contract employee was a decision maker (for example: involved in the final scope preparation, involved in the selection process or negotiated/approved billings or contract modifications), the employee is prohibited from working on these contracts.

As of this date, a copy of this information bulletin will be included in each ECS Statement of Qualifications package.

If a waiver is requested from the above restrictions, a statement must be submitted to ECS describing the nature of their involvement prior to proposal submittal or work assignment. Resolution of potential conflicts of interest will be determined by ECS in conjunction with the applicable Deputy State Engineer

**SECTION VIII**  
**LOBBYING CERTIFICATION**

## Lobbying Certification

The Consultant certifies, by signing and submitting this proposal (see statement in "Introductory Letter"), to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Copies of Form-LLL "Disclosure Form to Report Lobbying", are available at ADOT Engineering Consultants Section, 205 S. 17<sup>th</sup> Avenue, Mail Drop 616E, Room 293E, Phoenix, AZ 85007.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The proposer also agrees, by submitting its proposal, that it shall require that the language of this certification be included in all subcontracts and lower tier subcontracts which exceed \$100,000 and that all such subcontracts and lower tier subcontractors shall certify and disclose accordingly.

The Department will keep the Consultants certification on file as part of their original proposals. The Consultant shall keep individual certifications from all subcontractors and lower tier subcontractors on file. Certifications shall be retained for 3 years following completion and acceptance of any given project.

Disclosure forms for the Prime Consultant and or their subcontractors and lower tier subcontractors shall be submitted to the Contract Manager at the date Statements of Qualifications are due, when said subcontracts exceed \$100,000. During the performance of the contract the Consultant and any affected subcontractors shall file revised disclosure forms at the end of each calendar year quarter in which events occur that materially affect the accuracy of any previously filed disclosure form. Disclosure forms will be submitted by the Contract Manager to the Federal Highway Administration for further processing.

**SECTION IX**  
**SCOPE OF WORK**

**ARIZONA DEPARTMENT OF TRANSPORTATION  
INTERMODAL TRANSPORTATION DIVISION**

**SCOPE OF WORK**

**TEMPORARY PROFESSIONAL SERVICES  
HISTORIC PRESERVATION SPECIALIST  
STATEWIDE**

**ENVIRONMENTAL PLANNING GROUP**

**CONTRACT NO. 09-23**

**December 2008**



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**APPENDICES**

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**SCOPE OF WORK  
TEMPORARY PROFESSIONAL SERVICES  
HICTORIC PRESERVATION SPECIALIST**

**ENVIRONMENTAL PLANNING GROUP**

**100 GENERAL**

The work consists of providing environmental services for a period specified elsewhere in this contract, to assist in the development and coordination of historic preservation activities. Services provided to supplement the Arizona Department of Transportation (ADOT) in the Environmental Planning Group (EPG), under the terms of this contract, is an employee of the CONSULTANT, not ADOT.

**200 CONSULTANT SERVICES**

THE CONSULTANT will follow the position specifications below based on those approved by the State of Arizona Personnel Board, when considering candidates for the required position.

Should the assigned employee of the CONSULTANT not be able to complete the term of this contract, the CONSULTANT may be required to furnish other candidates of equal or higher qualification and be subject to approval by ADOT on a temporary basis. ADOT will then re-advertise the position.

Depending on the specific classification, the CONSULTANT will be requested to perform duties including, but not limited to, the following:

Coordinate historic preservation reviews of assigned projects, coordinate and consult with other agencies through correspondence and meetings to determine site eligibility, effect of a project on sites, to obtain approval, and complete the state, federal or tribal compliance process.

Prepare requests for archaeological surveys, site flagging, monitoring, testing, and data recovery.

Review technical reports (e.g., survey reports, testing and data recovery work plans, final testing and data recovery reports) for adequacy, acceptability, and compliance.

Provide cultural resource input to environmental documents.

Develop, monitor, and complete the compliance with state and federal laws for ADOT projects by working with ADOT project managers and EPG compliance staff.

Prepare and review RFPs in coordination with ECS, monitor fieldwork, and interact with ADOT Districts and all sections within ADOT.

Prepare Section 106 Agreement documents.

Coordinate cultural resource documentation and clearances for state and federal highway development projects in accordance with the National Environmental Policy Act (NEPA).

Coordinate and consult with other state and federal agencies, Native American Communities, and local governments on cultural resource and historic preservation issues.

This position will involve both technical and administrative tasks.

### **300 PERFORMANCE**

The performance of the CONSULTANT will be evaluated at 180-day intervals following the contract start date by the ADOT supervisor to whom the employee reports. Performance evaluation criteria are to be agreed upon by the CONSULTANT's employee and the supervisor. CONSULTANT personnel must perform the assigned work in a professional, proper, and skillful manner. If the supervisor determines the CONSULTANT's performance to be unsatisfactory or conduct to be interpreted as disorderly, this will be grounds for immediate termination, and the employee will be relieved of assigned duties immediately upon written notification.

The STATE reserves the right to terminate the CONSULTANT immediately upon written notification if consultant services are no longer required or satisfactory.

### **400 TRAVEL**

Occasional out-of-office travel may be required with the supervisor's approval. ADOT will reimburse per diem and/or mileage according to ADOT's policy. Mileage will be reimbursed at the rate negotiated per type of vehicle. Mileage of travel is to be measured by the most direct and usually traveled route. Reporting of travel expenses should be presented on the consultant's time record as described below. Commuting expenses, that is, time and mileage between the CONSULTANT's residence and assigned office, will not be reimbursed under this contract.

### **500 WORK SCHEDULE AND TIME RECORDS**

The CONSULTANT's normal work schedule will be as follows:

Work Week: Monday through Friday 40 hours per week.

Work hours: 8:00 a.m. – 4:30 p.m. (half-hour lunch) or as approved by the supervisor. Flexibility in hours will be acceptable; however, core hours are (9:00 – 3:00).

Holidays: Adhere to STATE Holiday Schedule (not billable)

Leave Time: Follow ADOT annual leave policy. Dates to be agreed upon in advance with the Supervisor. Additional time may be allowed at the discretion of the Supervisor.

Premium

Overtime: Payable for hours worked in excess of 40 hours per week, with prior approval of EPG Group Manager.

CONSULTANT will be paid only for actual hours worked. The CONSULTANT will be responsible for maintaining a clear, updated, single-source time document for record keeping, which will contain approved TRACS and Project (if applicable) Numbers that are open for charges, daily hours worked, project(s) mileage, and dollar amount claimed per day for per diem and vehicle usage. The time document shall cover the CONSULTANT's billing period. Only time documents with the required information will be verified and signed by the supervisor.

The CONSULTANT may also be requested to maintain a daily diary supplied by ADOT to verify project assignment and record daily activities, including daily start and end times, task(s) assigned, and vehicle mileage.

## **600 BILLING**

The CONSULTANT must prepare a Monthly Summary Report of Work hours by TRACS Number along with monthly billing to be submitted to ADOT Environmental Planning Group. Monthly billing must include start date of work assignment next to TRACS and Project Numbers when a charge appears for the first time. The CONSULTANT must verify all TRACS and Project Numbers using Project Numbering Reference furnished by ADOT before submitting monthly billing.

## **700 KNOWLEDGE AND SKILLS REQUIRED**

Analytical and interpretive skills to understand and maximize application of complex state and federal historic preservation laws and regulations.

Ability to analyze projects and propose mitigation measures for cultural resource impacts.

Planning and organizational skills to conduct research, analyze data, and prepare reports.

Good written communication skills essential to review and write cultural resource documents.

Excellent oral communication skills needed to communicate with staff, other agencies, tribes, consultants, and general public.

Familiarity with legal compliance procedures; knowledge and experience with the state historic preservation function, experience working with other state and federal agencies; knowledge of state and federal legislation, knowledge of National Register criteria.

Familiarity with state and federal historic preservation statutes and regulations, including National Historic Preservation Act, Native American Graves Protection and Repatriation Act, Arizona Antiquities Act.

Familiarity with the NEPA process and documentation.

Knowledge of Arizona statewide history and prehistory.

Ability to critically and objectively review reports.

Ability to perform work promptly and efficiently.

Ability to work well with others of a diverse nature.

Ability to handle heavy workload.

Willingness to work independently as well as with other ADOT staff members.

Knowledge of current archaeological field or historical evaluation and analytical methods in Arizona.

Knowledge of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.

Ability to read and understand highway plans.

## **800 QUALIFICATIONS**

**Required:** Two years of professional experience in the cultural resource management or historic preservation field.

**Desired, But Not Mandatory:** Knowledge of the Highway Development Process to effectively interact and coordinate with other disciplines within the Federal Highway Administration and ADOT.

**APPENDIX A**  
**POSITION SPECIFICATIONS**  
**FOR**  
**TEMPORARY PROFESSIONAL SERVICES**  
**ENVIRONMENTAL PLANNING GROUP**  
**HISTORIC PRESERVATION SPECIALIST**

**WORK DESCRIPTION**

The work consists of providing environmental services for a period specified elsewhere in this contract, to assist in the development and coordination of historic preservation activities. Services provided to supplement the Arizona Department of Transportation (ADOT) in the Environmental Planning Group (EPG), under the terms of this contract, is an employee of the CONSULTANT, not ADOT.

**MAJOR RESPONSIBILITIES**

Coordinate historic preservation reviews of assigned projects, coordinate and consult with other agencies through correspondence and meetings to determine site eligibility, effect of a project on sites, to obtain approval, and complete the state, federal or tribal compliance process.

Prepare requests for archaeological surveys, site flagging, monitoring, testing, and data recovery.

Review technical reports (e.g., survey reports, testing and data recovery work plans, final testing and data recovery reports) for adequacy, acceptability, and compliance.

Provide cultural resource input to environmental documents.

Develop, monitor, and complete the compliance with state and federal laws for ADOT projects by working with ADOT project managers and EPG compliance staff.

Prepare and review RFPs in coordination with ECS, monitor fieldwork, and interact with ADOT Districts and all sections within ADOT.

Prepare Section 106 Agreement documents.

Coordinate cultural resource documentation and clearances for state and federal highway development projects in accordance with the National Environmental Policy Act (NEPA).

Coordinate and consult with other state and federal agencies, Native American Communities, and local governments on cultural resource and historic preservation issues.

This position will involve both technical and administrative tasks.

## **KNOWLEDGE, SKILLS & ABILITIES**

Analytical and interpretive skills to understand and maximize application of complex state and federal historic preservation laws and regulations.

Ability to analyze projects and propose mitigation measures for cultural resource impacts.

Planning and organizational skills to conduct research, analyze data, and prepare reports.

Good written communication skills essential to review and write cultural resource documents.

Excellent oral communication skills needed to communicate with staff, other agencies, tribes, consultants, and general public.

Familiarity with legal compliance procedures; knowledge and experience with the state historic preservation function, experience working with other state and federal agencies; knowledge of state and federal legislation, knowledge of National Register criteria.

Familiarity with state and federal historic preservation statutes and regulations, including National Historic Preservation Act, Native American Graves Protection and Repatriation Act, Arizona Antiquities Act.

Familiarity with the NEPA process and documentation.

Knowledge of Arizona statewide history and prehistory.

Ability to critically and objectively review reports.

Ability to perform work promptly and efficiently.

Ability to work well with others of a diverse nature.

Ability to handle heavy workload.

Willingness to work independently as well as with other ADOT staff members.

Knowledge of current archaeological field or historical evaluation and analytical methods in Arizona.

Knowledge of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic preservation.

Ability to read and understand highway plans.

**SECTION X**  
**BOILER PLATE CONTRACT**



Contract No. 09-23  
TRACS No. Various

A.G. Contract No: KR94-1408ALS

**CONSULTANT CONTRACT**

This CONTRACT is made and entered into on \_\_\_\_\_ by and between the State of Arizona, Arizona Department of Transportation, Intermodal Transportation Division, acting by and through the Director, hereinafter called STATE, and

(Consultants Name and Address Inserted Here)

hereinafter called the CONSULTANT.

The Description and Location of the CONTRACT and related project(s) are as follows:

**Description:**

SUPPLEMENTAL SERVICES FOR HISTORIC PRESERVATION SPECIALIST

**Location:**

VARIOUS ARIZONA LOCATIONS

**RECITALS**

1. The STATE desires that Supplemental Services, Historic Preservation specialist be utilized for the above location. The trained personnel needed for the CONTRACT and related project(s) are not currently available within its own organization.
2. The CONSULTANT firm with its principals and employees is considered to be qualified and otherwise capable of performing the work required by this contract in the time allotted.
3. Therefore, pursuant to Arizona Revised Statutes, Section 28-1803(5) it is deemed to be in the public interest to enter into this contract.

**AGREEMENT**

Therefore, in consideration of these premises and of the mutual clauses and agreements herein contained, and the faithful performance thereof, the CONSULTANT and the STATE contract and agree:

**2.01 SCOPE OF WORK**

The CONSULTANT shall perform engineering services for the satisfactory completion of the CONTRACT and related project(s) as detailed and described in the following Scope of Work dated \_\_\_\_\_, 20\_\_\_\_ which is considered to be a part of this CONTRACT.

**3.01 CONTRACT SCHEDULE AND COMPLETION DATE**

Work on the CONTRACT and related project(s) is scheduled to commence on \_\_\_\_\_. Work is to be completed within 365 calendar days from notice to proceed for an estimated completion date of \_\_\_\_\_. The STATE assumes no liability for work performed or costs incurred prior to the beginning date or subsequent to the CONTRACT completion date. The STATE retains the option of extending the CONTRACT for two additional one year periods. Extensions of time allowed for completing the CONTRACT may be granted under appropriate circumstances.

**3.02 CONSULTANT'S COMPENSATION - SPECIFIC RATES OF COMPENSATION**

1. The method of payment for this contract is Specific Rates of Compensation. Total compensation for the work performed shall not exceed the sum of \$\_\_\_\_\_ plus approved adjustments.
2. The STATE shall pay the CONSULTANT in monthly installments based upon Progress and Final Payment Reports submitted by the CONSULTANT in ADOT's format and in accordance with the specific rates price schedule in the Contract.
3.
  - a. The Specific Billing Rate includes the CONSULTANT'S direct labor, indirect costs (overhead) and fixed fee costs.
  - b. Other Direct Costs shall be separately approved by the STATE. These are direct expenses for travel, subsistence, per diem, or other mutually agreed upon expenses of a non-routine nature which can be identified directly to this CONTRACT.
4. Costs are to be identified separately for each project number. Costs for each category must not exceed the amounts budgeted for those specific categories during the contract time frame without prior written approval of the STATE.
5. The STATE shall not withhold retention on progress payments. However, if satisfactory progress has not been made, the STATE may first retain a maximum of 10% of the current and subsequent billings, or secondly, the STATE may refuse to make full progress payment(s) of such sums which are considered necessary.
6. When all work is delivered, accepted and approved as complete by the STATE, the ADOT Office of Audit and Analysis may prepare a report showing allowable costs incurred. Preparation of this report may require an audit examination of the CONSULTANT'S records. This may also include an examination of subconsultants or subcontractors records.
7. Final payment shall be made as soon as possible after 60 days from the date of acceptance of the audit findings, if applicable, by the STATE and the CONSULTANT.

#### 4.01 CONTRACT MODIFICATIONS

1. Contract modifications, defining and limiting the terms of the contract and compensation, must be approved by the STATE, and shall be submitted in the form and format provided by the STATE. The CONSULTANT will be compensated only with prior written authorization by the STATE. Any administrative/technical costs associated with the preparation of said modifications are solely the responsibility of the CONSULTANT.

- a. Supplemental Agreements

Significant changes in the scope, character, or complexity of the work may be negotiated if it is mutually agreed that such changes are desirable and necessary. Contract changes defining and limiting the work and compensation must be authorized by the STATE. Such supplemental agreement(s) shall be made in writing, and it is expressly understood and agreed that no claim for extra work performed or materials furnished shall be made by the CONSULTANT until authorization to proceed is granted, in writing, by the STATE.

- b. Changes Orders

The STATE may at any time, by written order, and without notice to sureties, if any, make (or direct) changes within the general scope of this CONTRACT in the services to be performed.

#### 4.02 DELAYS AND EXTENSIONS

The CONSULTANT agrees that no charges or claims for damages shall be made against the STATE for any delays or hindrances during the progress of this CONTRACT. Such delays or hindrances, if any, will be covered by an extension of time for such reasonable period as mutually agreed upon between the parties. It is agreed and understood, however, that permission to proceed with the CONTRACT after the established completion date, shall not be construed as a waiver by the STATE of any of its rights herein.

#### 4.03 LATE SUBMITTAL OF INVOICE

Unless waived by the STATE, in writing, all invoices for work performed under this CONTRACT shall be submitted within 60 days from date of acceptance of the completed portion of the work performed.

#### 4.04 PERFORMANCE EVALUATIONS

The CONSULTANT'S performance will be evaluated periodically in accordance with the schedule set forth in Appendix D of this CONTRACT.

**4.05 GENERAL COMPLIANCE WITH LAWS**

The CONSULTANT shall comply with all Federal and State laws, and local ordinances and regulations.

**4.06 LITIGATION**

In the event of litigation between the CONSULTANT and the STATE involving this CONTRACT, the laws and decisions of the State of Arizona shall apply and any such litigation shall be commenced and prosecuted in the appropriate court of competent jurisdiction of the Federal or State Court System within the geographical boundaries of the State of Arizona.

**4.07 DISPUTE ESCALATION (Administrative Review)**

A written dispute escalation process will be utilized to resolve questions of fact during the course of this CONTRACT. The final determination will be made by the STATE.

**4.08 ARBITRATION**

The parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this agreement where the sole relief sought is monetary damages of \$100,000, or less, exclusive of interest and costs.

**4.09 TERMINATION, POSTPONEMENT OR ABANDONMENT**

1. The right is reserved by the STATE to terminate, indefinitely postpone work, or abandon the CONTRACT. The STATE may terminate this CONTRACT in any one of the following circumstances:
  - a. Failure of the CONSULTANT to perform the services as detailed herein and in any modifications to this CONTRACT.
  - b. Failure of the CONSULTANT to complete this CONTRACT within the time specified herein and in any modifications to this CONTRACT.
  - c. Failure of the CONSULTANT to comply with any of the terms of this CONTRACT.
  - d. When, for any reason, the STATE shall determine that such termination is in its best interest.
2. If the STATE contemplates termination under the provisions of paragraphs 1.a., 1.b., or 1.c. above, the CONSULTANT shall have five (5) days in which to cure such failure. In the event the CONSULTANT does not cure such failure, the STATE may terminate the CONTRACT without further consideration.

3. If, after Notice of Termination of this CONTRACT under the provisions of 1.a., 1.b. or 1.c. of this clause, it is determined that the CONSULTANT was not in violation or default, the Notice of Termination shall be deemed to have been issued under the terms of 1.d. of this clause.
4. Termination shall be effected by delivery to the CONSULTANT of a Notice of Termination specifying whether termination is for default of the CONSULTANT or for the convenience of the STATE, the extent to which performance of the CONTRACT is terminated, and the date upon which such termination becomes effective.
5. In the event of termination, the STATE shall be liable to the CONSULTANT only to the extent and as provided in SECTION 3.02 (CONSULTANTS'S COMPENSATION) of this CONTRACT.
6. In the event this CONTRACT is terminated, the STATE shall have the option of completing the CONTRACT, or entering into an agreement with another party for the completion of this CONTRACT according to the provisions and agreements herein.
7. If the STATE exercises this option, all costs and charges incurred by the STATE, together with the cost of completing the work under CONTRACT, will be deducted from any monies due or which may become due the CONSULTANT.

#### 4.10 CANCELLATION OF STATE CONTRACTS

In accordance with Arizona Revised Statutes 38-511, the STATE may cancel any CONTRACT, without penalty or further obligation, made after the effective date of this section by the STATE or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the CONTRACT on behalf of the STATE or any of its departments or agencies is, at any time while the CONTRACT or any extension of the CONTRACT is in effect, an employee of any other party to the CONTRACT in any capacity or a CONSULTANT to any other party of the CONTRACT with respect to the subject matter of the CONTRACT. The cancellation shall be effective when written notice from the STATE is received by all other parties to the CONTRACT unless the notice specifies a later time.

#### 4.11 SUCCESSORS AND ASSIGNS

The CONSULTANT and all successors, executors, administrators and assigns of CONSULTANT'S interest in the work or the compensation herein provided shall be bound to the STATE to the full legal extent to which the CONSULTANT is bound with respect to each of the terms and agreements of this CONTRACT.

#### 4.12 CONTINUING OBLIGATION

The CONSULTANT agrees that if because of death or any other occurrence it becomes impossible for any principal or employee of the CONSULTANT to render the services required under this CONTRACT, neither the CONSULTANT nor the surviving principals shall

be relieved of any obligation to render complete performance. However, in such event, the STATE may terminate this CONTRACT if it considers the death or incapacity of such principal or employee to be a loss of such magnitude as to affect the CONSULTANT'S ability to satisfactorily complete the performance of this CONTRACT.

#### 4.13 INSURANCE

1. Without limiting any liabilities or any other obligations of the CONSULTANT, the CONSULTANT shall provide and maintain the minimum insurance coverage listed below.

Coverage will be provided with forms and insurers acceptable to ADOT and maintained at a minimum until obligations under this CONTRACT are satisfied.

- a. If applicable, Workmen's Compensation insurance to cover obligations imposed by Federal and State statutes having jurisdiction of its employees engaged in the performance of the services, and Employers' Liability insurance with a minimum limit of one hundred thousand dollars (\$100,000). Evidence of qualified self-insured status shall suffice for this section.
- b. Architects' and Engineer's Professional Liability insurance in the amount of one million dollars (\$1,000,000) each claim, with said coverage to remain in force and effect for a minimum of one year past ADOT's acceptance of the CONTRACT.
- c. Comprehensive General Liability insurance with a minimum combined single limit of one million dollars (\$1,000,000) each occurrence. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, contractors protective, products and completed operations. Said policy shall contain a severability of interest clause.
- d. Commercial Automobile Liability coverage with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) for all owned, leased, hired and non-owned vehicles. The State of Arizona and the Arizona Department of Transportation must be named as Additional Insureds and Certificate Holder on the policy.
- e. Valuable Papers insurance in an amount sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the work of the CONSULTANT used in the completion of this CONTRACT.
- f. The policy required by Sections c. and e. above shall be endorsed to include the STATE and ADOT, its agents and officials and employees as additional insureds and shall stipulate that the insurance afforded CONSULTANT shall be primary insurance and that any insurance carried by ADOT, its agents, officials or employees shall be excess and not contributory insurance to that provided by CONSULTANT.

- g. A certificate of insurance acceptable to ADOT shall be issued to ADOT prior to commencement of the CONTRACT as evidence that policies providing the required coverages, conditions and limits are in full force and effect. Such certificate shall contain provisions that coverage afforded under the policies will not be cancelled, terminated or materially altered until at least 30 days prior written notice has been given to ADOT.

#### **4.14 INDEMNIFICATION - RESPONSIBILITY FOR CLAIMS AND LIABILITIES**

##### **1. For Professional Liability**

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the State of Arizona, its agents, representatives and employees from and against liability for loss or damage resulting from the negligence of the CONSULTANT, or any subconsultant, or anyone directly or indirectly employed by the CONSULTANT or any subconsultant, but only to the extent the loss or damage results from the negligence of the CONSULTANT, or any subconsultant, or anyone directly or indirectly employed by the CONSULTANT or any subconsultant.

##### **2. For Other than Professional Liability**

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the State of Arizona, its agents, representatives and employees from and against liability for loss or damage resulting from the negligence of the CONSULTANT, or any subconsultant, or anyone directly or indirectly employed by the CONSULTANT or any subconsultant, but only to the extent the loss or damage results from the negligence of the CONSULTANT, or any subconsultant, or anyone directly or indirectly employed by the CONSULTANT or any subconsultant.

#### **4.15 ANTITRUST VIOLATIONS**

The CONSULTANT and the STATE recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact borne by Purchaser or ultimate user: in this case, the STATE. Therefore, CONSULTANT, acting as a Vendor, hereby assigns to the STATE any and all claims for such overcharges.

#### **4.16 LIQUIDATED DAMAGES**

(This is an optional provision applied, on an exception basis, primarily to contracts initiated and administered by the Arizona Transportation Research Center - Not applicable to this contract)



#### **4.17 CONSULTANT'S RESPONSIBILITY**

The CONSULTANT has total responsibility for the accuracy and correctness of plans and related data prepared under the terms of this CONTRACT, and shall check all such material accordingly for completeness, missing items, correct multipliers and consistency. The plans will be reviewed by ADOT for conformity with ADOT procedures and contract terms. Review by ADOT does not include detailed review or checking of design of major components and related details or the accuracy with which such designs are depicted on the plans.

#### **4.18 ACCURACY OF WORK**

Acceptance of the work by the STATE will not relieve the CONSULTANT of the responsibility for subsequent correction of any such errors and the clarification of any ambiguities. The CONSULTANT shall make all necessary revisions or corrections resulting from errors and omissions on the part of the CONSULTANT without additional compensation.

#### **4.19 CONSULTANT'S ENDORSEMENT OF PLANS, ETC.**

The CONSULTANT'S seal shall be endorsed and affixed to plans, reports and engineering data furnished under this CONTRACT.

#### **4.20 PROFESSIONAL CONDUCT**

The CONSULTANT shall comply with the provisions of A.C.R.R.4-30-301 (which is the official compilation of the Administrative Rules and Regulations for the State of Arizona), entitled Rules of Professional Conduct, Rules of the State Board of Technical Registration for Architects, Assayers, Engineers, Geologists, Landscape Architects and Land Surveyors, which are incorporated herein by reference and hereby made a part of the CONTRACT.

#### **4.21 IMPROPER EXERCISE OF AUTHORITY**

It is further understood and agreed that the CONSULTANT shall not in any way exercise any portion of the authority or powers of the State of Arizona, and shall not make a contract or commitment, or in any way represent itself as an agent of the State of Arizona beyond the scope of this CONTRACT unless expressly authorized, in writing, by the STATE.

#### **4.22 CONFLICTS OF INTEREST**

1. The CONSULTANT shall not engage the services on this CONTRACT of any present or former STATE employee who was involved as a decision maker in the selection or approval processes or who negotiated and/or approved billings or contract modifications for this CONTRACT.
2. The CONSULTANT agrees that no public or private interest exists and none shall be acquired directly or indirectly which would conflict in any manner with the performance of the CONTRACT.

#### 4.23 ORGANIZATIONAL CONFLICTS OF INTEREST

1. No contract for the construction of a project shall be awarded to the firm that designed the project, or its subsidiaries, affiliates, the parent company or subconsultants, except with the written approval of the STATE.
2. The applicability of the above also applies to a Management and/or General Consultant or any of its subsidiaries, affiliates, the parent company or subconsultants that were involved in any aspect of the design process.

##### 4.23.1 CONSULTANT - CONTRACTOR CONFLICTS OF INTEREST

The CONSULTANT agrees that it shall not perform services on this project for the contractor, sub-contractor or any supplier.

The CONSULTANT shall not negotiate, contract, or make any agreement with the contractor, subcontractor or any supplier with regard to any of the work under this project, or any services, equipment or facilities to be used on this project.

#### 4.24 ORGANIZATION EMPLOYMENT DISCLAIMER

1. The CONTRACT is not intended to constitute, create, give to, or otherwise recognize a joint venture agreement or relationship, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the CONTRACT.
2. The parties agree that no persons supplied by the CONSULTANT in the performance of CONSULTANT's obligations under the CONTRACT are considered to be STATE employees, and that no rights of State civil service, retirement or personnel rules accrue to such persons. The CONSULTANT shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the STATE harmless with respect thereto.

#### 4.25 NONPROCUREMENT DEBARMENT AND SUSPENSION

1. In accordance with 49 CFR 29.505, and by signature on this CONTRACT, the CONSULTANT certifies its' compliance, and the compliance of any subconsultants or subcontractors present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving Federal Funds:
  - a) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  - b) does not have a proposed debarment pending;

- c) has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past 3 years; and
- d) has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years as specified by 49 CFR paragraph 29.305(a).

Where the CONSULTANT or subconsultant is unable to certify to the statement in 4.26.1(a) above, the CONSULTANT or subconsultant will be declared ineligible to enter into CONTRACT or participate in the project.

Where the CONSULTANT is unable to certify to any of the statements as listed in 4.26.1 (b), (c) or (d), the CONSULTANT shall submit a written explanation to the STATE. The certification or explanation will be considered in connection with the STATE's determination whether to enter into CONTRACT.

2. The CONSULTANT shall provide immediate written notice to the Department if at any time the CONSULTANT or any subconsultants or subcontractors, present or future, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

#### **4.26 COVENANT AGAINST CONTINGENT FEES**

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For breach or violation of this warranty, the STATE shall have the right to annul this CONTRACT without liability, or in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

#### **4.27 SUBLETTING, ASSIGNMENTS AND TRANSFERS**

The CONSULTANT firm was chosen to perform the work on this CONTRACT based upon training and qualifications of its members. Therefore, subletting, assignment or transfer of any work to subconsultants and lower tier subconsultants, unless approved in writing by the STATE prior to performance of work, is expressly prohibited.

**4.28 SUBCONSULTANTS (Specific Rates of Compensation)**

1. The CONSULTANT may retain Subconsultants on an "as required" basis, provided that the Subconsultants selected, and the rates to be paid, are identified on each Subconsultant's DERIVATION OF COST PROPOSAL located in the SCOPE OF WORK section, Appendix C of the CONTRACT, or are approved by contract modification, or by Administrative Determination Letter, as applicable. The specific rates for each Subconsultant, when applicable, will be the rate stipulated in each Subconsultant's final DERIVATION OF COST PROPOSAL, as concurred with by the STATE.

The specific rates for all Subconsultants are developed from the Subconsultant's Direct Labor, Indirect Costs (Overhead) and the Fee. The Indirect Costs (Overhead) of the Subconsultants are subject to audit unless waived by the STATE. All provisions of paragraph 3 apply to the Subconsultants. The cost to the STATE for Subconsultants shall be in amounts equal to the actual allowable costs paid to the Subconsultants.

2. The volume of work performed by the Subconsultants shall not exceed 49% of the total contract value unless waived by the STATE.

**4.29 SUBCONTRACTS**

The CONSULTANT agrees to insert in all subcontracts the clauses hereof entitled "Civil Rights," "Affirmative Action," "Ownership of Documents," "Patents and Copyrights", "Anti Lobbying and Disclosure," "Retention of Records," and "Immigration". The CONSULTANT further agrees to insert in any subcontract exceeding \$100,000 the clause hereof entitled "Environmental Protection."

**4.30 KEY PERSONNEL**

Any substitution or transfer of personnel specifically identified in CONSULTANT'S proposal as assigned to the work of this CONTRACT shall be subject to prior written approval by the STATE.

**4.31 EMPLOYMENT OF PERSONNEL OF PUBLIC AGENCIES**

The CONSULTANT shall not engage the service of any person or persons then in the employ of the STATE for work covered by the terms of this CONTRACT without the prior written approval of the STATE.

**4.32 ANTI-LOBBYING**

1. The CONSULTANT agrees to comply with the provisions of Section 1352 of Title 31, U.S.Code (Public Law 101.121) as codified in Title 48, Federal Acquisition Regulations Subpart 3.8 and Subpart 52.203-11. The legislation prohibits federal funds from being expended by a recipient or any lower tier subrecipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the award of any Federal contract, cooperative agreement, including the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. All disclosure statements are to be furnished to the STATE.
2. The CONSULTANT agrees to require all subconsultants and lower tier subconsultants who have agreements exceeding \$100,000 to complete the Certification of Federal Contracts (ECS Form 90-1) and, when appropriate, the Disclosure of Lobbying Activities (ECS Form 90-3) prior to execution of the Prime Consultants Agreement with the STATE. Lower tier certifications are to be maintained by the CONSULTANT.

**4.33 OWNERSHIP OF DATA**

1. The CONSULTANT agrees to maintain (in sufficient detail as will properly reflect all work done and results achieved in the performance of this CONTRACT) tracings, plans, specifications and maps, basic survey notes and sketches, books, records, reports, research notes, charts, graphs, comments, computations, analyses, recordings, photographs, computer programs and documentation thereof, and other graphic or written data generated in connection with the work called for in the CONTRACT; all such information and documentation to be termed "Data" under this CONTRACT.
2. All Data procured hereunder for the work funded by ADOT shall become the property of ADOT and delivered to ADOT upon request, and shall not be used or released by the CONSULTANT or any other person except with the prior written approval of the STATE; provided however, that CONSULTANT shall not be required to retain any Data not requested by ADOT within five years from the date of final payment to the CONSULTANT hereunder; and provided further that until such delivery to ADOT the CONSULTANT agrees to permit representatives of ADOT and the Federal Highway Administration to examine and review at reasonable times all Data still in the possession of the CONSULTANT.
3. All services, information, computer program elements, reports and other deliverables which may be patented or copyrighted and created under this CONTRACT are the property of the State of Arizona and shall not be used or released by the CONSULTANT or any other person except with the prior written approval of the STATE.

#### 4.34 ADOT PRODUCTS

ADOT will provide the consultant with the ADOT developed software for the sole purpose of completing this contract, as set forth in the Site License Contract (which includes a detailed list of Software that will be provided to the consultant). The software is provided to the consultant solely for the purpose of completing this contract and for no other purposes. ADOT developed software including: manuals, electronic information, programs, and associated materials, remains the property of ADOT. Any use of this software for purposes other than the fulfillment of this contract is strictly prohibited. The consultant shall not copy the software or provide, distribute or demonstrate the software to other entities. Upon completion of the contract or when otherwise notified by ADOT, the contractor will return all software, backup copies, manuals, electronic information and associated materials to ADOT.

#### 4.35 RETENTION OF RECORDS

1. The CONSULTANT and any subconsultant/subcontractor/vendor shall keep and maintain all books, papers, records, accounting records, files, accounts, reports, costs proposals with backup data and all other material relating to the CONTRACT and related project(s), and shall make all such material available at any reasonable time during the term of work on the CONTRACT and related project(s) and for five (5) years from the date of final payment to the CONSULTANT for auditing, inspection and copying upon the STATE'S request, or at the request of the Federal Highway Administration or any other authorized representative of the Federal Government.
2. The CONSULTANT shall insert in each of its subcontracts the above requirement and also a clause requiring its subconsultants to include the above requirement in any lower-tier subcontracts or purchase orders.

#### 4.36 REVIEW AND INSPECTION

Representatives of the STATE and the Federal Highway Administration are authorized to review and inspect the CONTRACT activities and facilities during normal business hours.

#### 4.37 PROPERTY OR EQUIPMENT

Except as otherwise provided in this CONTRACT, the lease, rental or purchase of property or equipment to perform the work herein described must have the prior written approval of the STATE. The control, utilization and disposition of property or equipment acquired using FEDERAL/STATE funds shall be determined by the STATE in accordance with the property management standards set forth in 49 CFR Part 18 , ADOT Manual - FIN 11.02, and Highways Division Policy and Implementation Memorandum No. 89-04.

#### 4.38 CIVIL RIGHTS

1. The CONSULTANT is required to comply with Executive Order 75-5, "Non-discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this CONTRACT.
2. The CONSULTANT is required to comply with Title VI of the Civil Rights Act of 1964, as amended. Accordingly, Title 49, Code of Federal Regulations, Part 21 through Appendix H and Title 23, CFR 710.405 (b) are made applicable by reference and are hereinafter considered a part of this CONTRACT.
3. The CONSULTANT is required to comply with the provisions of Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41-CFR Part 60). Said provisions are made applicable by reference and are hereinafter considered a part of this CONTRACT.
4. The CONSULTANT shall post in conspicuous places available to employees and applicants for employment, the following notice:

It is the policy of this company not to discriminate against any employee, or applicant for employment, because of race, color, religion, creed, national origin, sex, age, handicapped, or disabled veterans and Vietnam era veterans. Such actions shall include, but are not limited to: employment; upgrading, demotion, transfer, recruitment, or recruitment advertising; laying-off or termination; rates of pay or other compensation; and selection for training, and on-the-job training. Also, it is the policy to insure and maintain a working environment free of harassment, intimidation and coercion.

#### 4.39 AFFIRMATIVE ACTION

CONSULTANT shall take the following affirmative action steps with respect to securing supplies, equipment or services under the terms of this CONTRACT:

1. Include qualified firms owned by socially and economically disadvantaged individuals on solicitation lists.
2. Assure that firms owned by socially and economically disadvantaged individuals are solicited whenever they are potential sources.
3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by firms owned by socially and economically disadvantaged individuals.
4. Where the requirement permits, establishing delivery schedules which will encourage participation by firms owned by socially and economically disadvantaged individuals.

5. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

#### 4.40 PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES

The CONSULTANT is required to adhere to the commitment made to participation by ADOT certified Disadvantaged Business Enterprises (DBE) as indicated in the firms Technical Proposal or subsequently agreed to by the STATE during negotiations. The STATE, at its discretion on a case by case basis, may waive the above limitations.

#### 4.41 ENVIRONMENTAL PROTECTION

(This clause is applicable if this contract exceeds \$100,000.00. It applies to Federal Aid Contracts Only.)

CONSULTANT is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the Federal Highway Administration and to the U.S.E.P.A. Assistant Administrator for Enforcement. (EN-329).

#### 4.42 ENERGY CONSERVATION

(This clause is applicable to Federal Aid Contracts Only.)

CONSULTANT is required to comply with mandatory standards and policies, as applicable, relating to energy efficiency which are contained in the State Energy Conservation Plan issued by the State of Arizona in compliance with the Energy Policy Conservation Act (P.L. 94-163).

#### 4.43 PUBLICATION PROVISIONS

The CONSULTANT shall provide annual, quarterly or monthly written progress reports requested by the STATE. Prior to completion of the CONTRACT and related project(s), the CONSULTANT shall prepare a final report summarizing activities, conclusions, and recommendations in a form as prescribed by the STATE, and this report shall be a prerequisite for final payment. Publication rights to all reports are reserved by the STATE. The CONSULTANT shall not release information developed under the CONTRACT prior to publication, except upon written approval of the STATE.



4.44 PUBLICATION PROVISIONS (RESEARCH AND UNIVERSITIES)  
(Not applicable to this contract)

4.45 PATENTS AND COPYRIGHTS

All services, information, computer program elements, reports and other deliverables which may be patented or copyrighted and created under this CONTRACT are the property of the State of Arizona and shall not be used or released by the CONSULTANT or any other person except with the prior written approval of the STATE.

4.46 PATENTS AND COPYRIGHTS (RESEARCH AND UNIVERSITIES)  
(Not applicable to this contract)

4.48 FEDERAL IMMIGRATION AND NATIONALITY ACT:

1. General: The consultant, including all subconsultant, shall comply with all federal, state and local immigration laws and regulations, as set forth in Arizona Executive Order 2005-30, relating to the immigration status of their employees who perform services on the contract during the duration of the contract. The State shall retain the right to perform random audits of consultant and subconsultant records or to inspect papers of any employee thereof to ensure compliance.

2. Compliance Requirements: By submission of a proposal, the consultant warrants that the consultant and all proposed subconsultants are and shall remain in compliance with all federal, state and local immigration laws and regulations relating to the immigration status of their employees who perform services on the contract. The State may, at its sole discretion, require evidence of compliance from the consultant shall have ten working days from the receipt of the request to supply adequate information.

The Department will accept, as evidence of compliance, a showing by the consultant or subconsultant that it has followed the employment verification provisions of the Federal Immigration and Nationality Act as set forth in Sections 274A and 274B of that Act, including implementation of regulations and agreements between the Department of Homeland Security and the Social Security Administration's verification service.

The Consultant shall include the provisions of Subsection 4.30 in all its subcontracts.

3. Sanctions for Non-Compliance: Failure to comply with the immigration laws or to submit proof of compliance constitutes a material breach of contract. The Department will reduce the consultant's compensation by \$10,000 for the initial instance of non-compliance by the consultant or subconsultant. Should the same consultant or subconsultant commit subsequent violations within a two-year time period from the initial violation, the consultant's compensation will be reduced by \$50,000 for each violation. The third instance by the same consultant or subconsultant within a two-year period may result, in addition to the \$50,000 reduction in compensation, in removal of the offending consultant or subconsultant, suspension of work in whole or in part or, in the case of a third violation by the consultant, termination of the contract for default. In addition, the Department may debar a consultant or subconsultant who has committed three violations within a

two-year period for up to one year. For purposes of this paragraph, a violation by a subconsultant does not count as a violation by the consultant.

Any delay resulting from a sanction under this subsection is a non-excusable delay. The consultant is not entitled to any compensation or extension of time for any delays or additional costs resulting from a sanction under this subsection.

An example of the sanctions under this subsection is presented in the following table:

Offense by:			Reduction in Compensation
Consultant	Subconsultant A	Subconsultant B	
First			\$10,000
	First		\$10,000
	Second		\$50,000
		First	\$10,000
	Third		\$50,000 *
* May, in addition, result in removal of the subconsultant and/or debarment of the subconsultant.			

In Witness whereof the parties hereto have executed this agreement as of the day and year first herein written.

FOR THE STATE

ARIZONA DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Date

FOR THE CONSULTANT

\_\_\_\_\_  
Date

By: \_\_\_\_\_

\_\_\_\_\_  
Title

FIRM NAME \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Title